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**Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development**

# Written statement* submitted by the Jammu and Kashmir Council for Human Rights (JKCHR), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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# Jammu and Kashmir Human Rights Situation

Political States are legitimate, if they adequately protect the human rights of their constituents and respect the rights of all others. Promotion and protection of all human rights is seriously disturbed when the principle of equality and self-determination of a people is pending adjudication. It is even more difficult when people are divided, distributed and differently administered by two or more member nations of the UN, denying access to each other to these people. There is an agreement between the Governments of India and Pakistan reached at the UN Security Council that there would be a demilitarization of the State for holding a plebiscite.

Human Rights situation in Jammu and Kashmir (administered by India) in particular of the Muslims has not improved since Pakistan moved a Resolution L40 at the 50th session of UN Human Rights Commission in March 1994 and Mme Pally UK expert on the Sub Commission moved another Resolution L21 at the 49th session of the Sub Commission on Human Rights in August 1997, affirming that Jammu and Kashmir was an exceptional case and there were new circumstances, particularly grave circumstances.

Jammu and Kashmir Government has revealed in the Assembly that 9329 persons are detained in 13 jails of the State since 2002. Unofficially the number stands much higher. Torture is widely used in police stations and interrogation centers to extract confessions or information, to humiliate or punish detainees, leading to dozens of reported deaths in custody. Of these, 2673 are detained in Central Jail Srinagar; 2075 in Central Jail Kot Balwal Jammu; 1696 in District Jail Baramulla; 975 in District Jail Udhampur; 537 in District Jail Kathua; 364 in District Jail Jammu; 239 in District Jail Kishtwar; 184 in District Jail Rajouri; 176 in District Jail Kupwara; 172 in District Jail Poonch; 106 in Sub Jail Reasi; 85 in District Jail Anantnag and 47 in Sub Jail Hira Nagar.

On an RTI application filed by Abdul Manan Bukhari heading the legal cell in the Hurriyat Conference in the Valley, Home Department has revealed that 16,329 people in the State have been booked under infamous Public Safety Act (PSA) after eruption of a political and a militant resistance in the Indian administered part of Kashmir in 1988.
PSA is one of the most draconian laws applicable in Jammu and Kashmir used liberally as a repressive measure to crush dissent. PSA finds its roots in the Defence of India Act (DIA) during the British rule but it is more punitive form of the DIA that was described by various leaders including Mohandas Karamchand Gandhi as draconian and a black law enacted by British to suppress the Indian freedom struggle. DIA was renamed in 1967 and is presently known as PSA. In Jammu and Kashmir, it is known as Jammu and Kashmir Public Safety Act1978.

Human Rights organizations and lawyers have been demanding review of this act. The AFSPA empowers security forces to arrest and enter property without warrant and gives the security forces power to shoot to kill in circumstances where members of the security forces are not at imminent risk. It facilitates impunity because no person can start legal action against any members of the armed forces for anything done under the Act, or purported to be done under the Act, without permission of the Central Government. 707 FIRs were registered against minors. 141 minors have been arrested

in Kathua under various criminal cases since 1989. 25 minors were booked by police in Kathua in 2013. These details represent a general template and do not reflect the aggregate situation prevailing in other parts of the valley.

PSA is being used by the Indian army and the State apparatus to take the males of all ages out of circulation and without any redress. Valley has returned to the old days of September 1931 when the ruler had allowed his police and army to arrest all dissenting Muslims as turbulent people.

In another RTI application filed by Sanjay Tikoo, president of Kashmiri Pandit Sangarsh Samiti the police has been forced to reveal that 60,000 families in Kashmir (Muslims) have been denied passport clearance by the CID. These families are "indexed not to receive CID clearance" for passports. The apparent reason for denying the passport clearance to such a large number of people was their alleged affiliation with Kashmiri people's right to self-determination duly pending at the UN SC for a reference of the people.

General Officer Commanding of Srinagar-based 15 Corps, Lt Gen Subrata Saha on 07 December 2014 made a statement that 100 militants were killed in 2014 in the Valley raises serious doubts in regard to the identity of the people killed and the circumstances under which they were killed. It is in fact the killing of a State Subject by Indian army which remains under two strict disciplines, a bilateral and a UN one in regard to its presence in the Valley and its duties.

Mr. Saha informed that "There were approximately 6800 militants active during 1996 in the State which, however, has got reduced to 240 and 199 in 2013 and 2014 January". Kashmir has lost around 100,000 civilian lives from 1990-2015 and the manner in which the 6800 alleged militants have been killed by the army is a serious situation and AFSPA wou d not allow anyone to seek any probe or information.

The security apparatus in Jammu and Kashmir engages in creating a self-serving hype in regards to the presence of militants. The refugees returning through Nepal are in fact civilians. A total of 268 families comprising of 869 persons including 146 spouses and 455 children have returned during the past three years from Azad Kashmir through Nepal. A policy of rehabilitation has been announced in November 2010, for the return and rehabilitation of such youth who had crossed the Line of Control (LoC) during the 1990s when militancy was at its peak in Kashmir. We find that these people have not been properly rehabilitated and there have been many instances where family members have been driven to commit suicide.

JKCHR team in Srinagar, in particular, Syed Javid Geelani (CAO) and Mohammad Ashraf Bhat (PRO) have worked hard to provide humanitarian relief to the September 2014 flood victims in various parts of the Valley. The team has worked hard to energise interest in the scope to promote and protect the human rights. Their verifiable research has revealed that the State has imprisoned minors under 18 years of age and women for reasons of family association with people accused of dissent.

A new practice of forcing the civilian population in particular the children to work as informers for the police and intelligence agencies is shaping into an institution. For example a 17 year old minor Danish was picked up by the police in November 2012 and charged with stone pelting. During eight days of detention, he was subjected to physical and mental torture. He recounts his ordeal, recalls dates, time and people who arrested and tortured him. His narration takes 37 minutes.

Police beat him, showed him videos of stone pelting on a laptop and asked him to identity other youth involved in stone pelting on the police. They asked him to join them on night raids. Initially, Danish refused. Coercion continued until he was forced to reveal the addresses of two teenage boys. 'They were my friends,' he says. Danish suffered from fever and his health worsened. He was taken to a police doctor before appearing in a local court, but was directed not to divulge details about his health.

JKCHR wishes to place on record the valuable services of all at Kashmir chapter in Srinagar, in particular Syed Mohammad Yasin Gilani, chairman JKCHR Community Centre at Narantahal, Baramulla (and his team), Qazi Lateef Shaheen, Faroz Ahmed Mogal, Riyaz Ahmad Malik, Syed Mohammad Shafi Geelani, Wasta Abdul Majid, Khaliq Malik, Hardeep Singh and all others who have been making a difference in the promotion and protection of human rights. JKCHR Pakistan chapter in particular Syed Sajjad Hussain Shah and the team have equally continued to increment the scope of defence of human rights, importantly in sensitising the rights of the five generations (around 2 million) of Kashmiri refugees domiciled in Azad Kashmir and various cities of Pakistan. Over 35,000 people (Muslims) migrated from Indian administered Kashmir in 1989 and are living in the Chela Bandi makeshift camp in Azad Kashmir. These refugees continue to raise the issues of six per cent job quota, increase in monthly stipend and permanent settlement.

It is earnestly proposed that in view of the pending adjudication of the Kashmir dispute, reporting on the promotion and protection of human rights in Jammu and Kashmir should be a regular and principal concern of the Council agenda. The behaviour of the two States in the areas under their respective administration should be consistent with the principles of the Charter of the United Nations and their responsibilities under UNCIP Resolutions.